

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

JEREMIAH YBARRA  
Institutional ID No. 55024-280

Plaintiff,

v.

BILLY KIETH, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:18-CV-00167-C

**ORDER**

The United States Magistrate Judge entered a Report and Recommendation on April 11, 2019, and Plaintiff filed his objections on April 24, 2019.

The undersigned United States District Judge has made an independent examination of the record in this case and has examined the findings, conclusions, and recommendations of the Magistrate Judge as well as the specific objections of the Plaintiff. The Court finds that Plaintiff's objections should be overruled in all things, and the Court accepts and adopts the findings, conclusions, and recommendation of the Magistrate Judge.

It is, therefore, ORDERED that Plaintiff's complaint and all civil rights claims alleged therein are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim. This dismissal is without prejudice to Plaintiff's right to challenge the disciplinary proceeding in a properly filed petition for writ of habeas corpus under 28 U.S.C. § 2241.

Judgment shall be entered accordingly.

This dismissal shall count as a qualifying dismissal under 28 U.S.C. § 1915(e)(2)(B) and 1915A(b)(1), and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996).

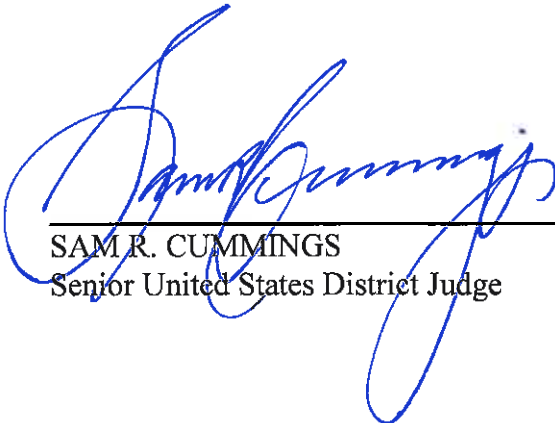
Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

A copy of this order shall be sent to all parties appearing *pro se* by first class mail and to any attorney of record by first class mail or electronic notification.

Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$505.00 pursuant to the PLRA, and he must submit an application to proceed *in forma pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

Any pending motions are **DENIED**.

Dated June 7, 2019.



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SAM R. CUMMINGS  
Senior United States District Judge